

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matters of	)	GN Docket No. 09-137
	)	
Inquiry Concerning the Deployment of Advanced	)	
Telecommunications Capability to All Americans	)	
in a Reasonable and Timely Fashion, and Possible	)	
Steps to Accelerate Such Deployment Pursuant to	)	
Section 706 of the Telecommunications Act of	)	
1996, as Amended by the Broadband Data	)	GN Docket No. 09-51
Improvement Act	)	
	)	
A National Broadband Plan for Our Future	)	
	)	

**REPLY COMMENTS OF GEORGIA POWER COMPANY**

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October 2, 2009

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**REPLY COMMENTS OF GEORGIA POWER COMPANY**

**I. Introduction and Summary**

Georgia Power Company (“Georgia Power”) is an investor-owned electric utility that serves approximately 2.2 million customers and owns approximately 1.3 million distribution poles covering approximately 47,000 pole miles in the State of Georgia.<sup>1</sup> It is the largest of the four electric utilities that are owned by Southern Company.

Some of the providers and potential providers of rural broadband service argue that deployment of broadband requires a detailed Commission order addressing the pole attachment

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<sup>1</sup> Declaration of Candler J. Ginn, ¶ 6, attached as Exhibit 1 (“Ginn Decl.”). For additional information regarding Georgia Power, see <http://www.georgiapower.com>.

make-ready work process.<sup>2</sup> Georgia Power believes such a course of action would be unwise for a variety of reasons.

First, universal access to broadband will require deployment of broadband networks to sparsely populated areas, as the *Notice of Inquiry* (“*Inquiry*”) makes clear.<sup>3</sup> However, any Commission order, adopted pursuant to the Commission’s authority under 47 U.S.C. § 224, addressing poles in rural areas will have only a minimum impact because most poles in such areas are owned by electric membership cooperatives and such entities are outside the jurisdiction of the Commission.<sup>4</sup>

Additionally, it has been Georgia Power’s experience that the current process for make-ready work and providing access to poles for third-party service providers is being performed in a timely and cost efficient manner.

Furthermore, utility pole owners must have full control over the make-ready process for reasons of safety, system reliability and national security. Some activities are so important that they cannot be delegated or left to other parties. Maintaining the integrity of a utility’s poles is one such activity.

Finally, each request for pole access and the subsequent make-ready work is unique. This uniqueness arises from the fact that there are different types and sizes of utility poles, different pole locations with site specific ground soil, and a large variety of types of attachments. Given such a set of circumstances, the only rational course for the Commission is to continue

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<sup>2</sup> See e.g., *Ex Parte Notice*, MetroPCS Communications Inc., *In re A National Broadband Plan for our Future*, GN Docket No. 09-51 “Memorandum on the Importance of Pole Attachments to the Development of Commercial Mobile Radio Service and Broadband Networks,” page 7 (filed Sept. 16, 2009); Comments of Sunesys, GN Docket No. 09-51, page 2-12 (filed June 8, 2009); Comments of The Wireless Internet Service Providers Association, page 21 (filed June 8, 2009); Reply Comments of Time Warner Cable, GN Docket No. 09-51, page 10-11 (filed July 22, 2009).

<sup>3</sup> See *Notice of Inquiry*, *A National Broadband Plan for Our Future*, GN Docket No. 09-137 and GN Docket No. 09-51, ¶¶ 6-8 (released Aug. 7, 2009).

<sup>4</sup> See 47 U.S.C. § 224(a)(1).

utilizing its current regulations and orders with the understanding that egregious situations will be addressed on a case by case basis.

## **II. Implementation of A Broadband Plan Does Not Require A New Order Addressing Mandatory Access To Utility Poles**

As the Commission is aware, a number of service providers with mandatory pole access rights have argued that there is a need for detailed pole attachment applications and make-ready work regulations that will theoretically speedup the deployment of cable, communication and broadband networks.<sup>5</sup> This very issue is currently being addressed in a Notice of Proposed Rulemaking addressing the amendment of the Commission's Rules and Policies Governing Pole Attachments.<sup>6</sup> Now, some service providers with mandatory access rights are seeking to use the Inquiry as yet another opportunity to present the case for more in-depth attachment access and make-ready work regulations.<sup>7</sup>

Any argument that pole attachment regulations and orders should be modified to implement a National Broadband Plan is without merit because changing current regulations or orders will have only a minimal impact on a broadband network deployment. The only geographic areas within the State of Georgia that have limited or no access to broadband service are located in sparsely populated rural areas.<sup>8</sup> Virtually all of the attachments in rural areas in the State are owned by electric membership cooperatives which are exempt from Commission

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<sup>5</sup> See e.g., Petition for Rulemaking of Fibertech Networks, RM-11303 (filed Dec. 7, 2005); Comments of Sunesys, Inc. in Support of Petition for Rulemaking of Fibertech Networks (filed Jan. 30, 2006); Reply Comments of Time Warner Telecom, RM-11303 (filed Mar. 2, 2006); Comments of National Cable & Telecommunications Association, pp. 2-7, *In re* Implementation of Section 224 of the Act; Amendment of the Commission's Rules and Policies Governing Pole Attachments, WC Docket No. 07-245, RM-11293 and RM-11303 (filed March 7, 2008); .

<sup>6</sup> See Notice of Proposed Rulemaking, *In re* Implementation of Section 224 of the Act; Amendment of the Commission's Rules and Policies Governing Pole Attachments, WC Docket No. 07-245, RM-11293 and RM-11303 (released Nov. 20, 2007 and adopted Oct. 31, 2007).

<sup>7</sup> See Commenters identified in footnote 2 *supra*.

<sup>8</sup> See Declaration of Allen F. Bell ¶ 4 and Attachment A, attached as Exhibit 2 ("Bell Decl.").

regulatory oversight.<sup>9</sup> In sum, any change in pole attachment regulations or orders to promote rural broadband deployment will be a classic case of the tail wagging the dog.

### **III. The Current Make-Ready Process Is Being Performed In A Timely And Cost Efficient Manner**

While there were some make-ready work cost allocation problems when the mandatory access provisions of the Pole Attachments Act became effective, these problems seem to have been resolved. Currently, Georgia Power is not receiving any significant complaints regarding the speed of pole access.<sup>10</sup>

Georgia Power counts the pole attachments in the entire state of Georgia on a five year cycle.<sup>11</sup> In the most recent cycle (2008), which included two of the most rural areas of the state Georgia Power serves, a net increase of approximately 7,800 attachments were added by cable television service providers (“cable providers”) and competitive local exchange carriers (“CLECs”).<sup>12</sup> Moreover, it has recently been Georgia Power’s experience that no exceptionally large size build outs by service providers are occurring in Georgia Power’s service area.<sup>13</sup> The lack of such build outs is due to the fact that new subdivision and commercial construction project are using underground facilities.<sup>14</sup> New underground facilities are typically installed using joint trench agreements in dedicated public access rights-of-way.<sup>15</sup> Joint trench agreements do not involve mandatory access and none of the parties are required to pay any recurring access charges.<sup>16</sup>

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<sup>9</sup> *Id.* at ¶¶ 4-5 and Attachment A; *see also* 47 U.S.C. § 224(a)(1).

<sup>10</sup> Ginn Decl. at ¶ 3.

<sup>11</sup> Bell Decl. at ¶ 7.

<sup>12</sup> *Id.* The net 7,800 attachments is net of the total attachments added by cable providers and CLECs less the number of attachments removed by these entities. *Id.*

<sup>13</sup> *Id.* at ¶ 8.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

Additionally, Georgia Power responds to attachment requests well within the 45 day period required by the Commission for access to our poles.<sup>17</sup> On average, it takes Georgia Power 28 days from receiving an application to perform engineering and provide the applicant with a cost estimate.<sup>18</sup> It then takes the applicant on average 19 days to make a decision as to whether or not to proceed with the work.<sup>19</sup> On average, it takes Georgia Power a total of 54 days (which includes the 19 days waiting on a decision from the applicant) from receiving an application for access to finalize engineering work, complete the electrical system adjustments, and issue a permit to proceed in conjunction with the other existing attaching entities.<sup>20</sup> The size of the job is also a factor in how long it takes to complete make-ready work.<sup>21</sup> When pole access is delayed it generally arises from other attaching parties being tardy in the relocation of their attachments in order to accommodate the new attachment, and not the result of Georgia Power's make-ready process or lack of diligence in preparing poles for new attachments.<sup>22</sup> In short, Georgia Power is making a reasonable and successful effort to promptly respond to request for third-party access to its poles.

Finally, while Georgia Power would agree, as some have proposed, that authorizing a single company to transfer all attachments would be an excellent way to speed up the process, labor agreements with some communication companies in the Georgia Power service area prevent this from happening.<sup>23</sup> Georgia Power will continue to work with attaching entities to improve the make-ready process without the Commission's involvement.

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<sup>17</sup> See 47 CFR § 1.1403(b).

<sup>18</sup> Ginn Dec. ¶ 7.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at ¶ 3.

<sup>23</sup> Bell Decl. at ¶ 6.

#### **IV. For Reasons Of Safety, System Reliability And National Security It Is Essential That Utility Pole Owners Control Make-Ready Work On Their Poles**

The *Inquiry* is being viewed by some service providers as yet another opportunity to argue that third-party attaching entities should be allowed to use their own pre-approved contractors to perform make-ready work.<sup>24</sup> To be blunt, any use of non-pole owner controlled contractors to perform make-ready work is bad policy from an efficiency standpoint and, most importantly, from a safety standpoint.

Pole owners are in the unique position of being the only party that has full knowledge of all attachment activity taking place on any particular pole.<sup>25</sup> In order to ensure that a pole has been engineered to meet the National Electric Safety Code<sup>26</sup> (“NESC”) and other applicable requirements, it is essential that there be a centralized knowledge base regarding a host of subjects including, but not limited to, weight and load bearing, attachment spacing, radio frequency emissions, future plans of attaching entities, pole replacement plans, state Department of Transportation activity and critical local and national government activities dependent upon the safe and uninterrupted use of pole attachments.<sup>27</sup>

Allowing a communication, cable television or broadband service provider to use their own contractors to perform make-ready work will create a situation in which no one will have oversight and control of all activity taking place on a pole. Under such circumstances utilities will be forced to monitor such work, which will result in delay and additional cost.

Moreover, the primary purpose of an electrical utility pole is to distribute the commodity of electricity. The attachment of communication, television cable and broadband facilities, while

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<sup>24</sup> See Commenters identified in footnote 2 *supra*.

<sup>25</sup> Ginn Decl. at ¶ 4. Of course, if attaching entities put up unauthorized attachments or perform unauthorized work on a pole, then not even a pole owner has full knowledge of all attachments.

<sup>26</sup> The National Electric Safety Code is universally recognized by utilities as the minimum safety standards. See Overview of NESC, available at <http://standards.ieee.org.nesc.overview.html>.

<sup>27</sup> Ginn Decl. at ¶ 5.



important, must be viewed as secondary to the reliability of an electrical distribution system.

Without reliable electricity none of the other services are possible. It should also be remembered that police departments, fire departments, hospitals, air traffic controllers, and military bases rely upon utility furnished electricity to operate at their highest level of efficiency.<sup>28</sup> In other words, an efficient, robust, and reliable electric distribution system is imperative to public safety and national security.

**V. It Would Be Unwise For The Commission To Issue A Detailed Pole Attachment Make-Ready Order Due To The Fact That Each Make-Ready Project In Each Area of the Country Is Unique**

Following decades of joint use pole attachments, it is clear that, as regards pole attachment make-ready work, one size shoe does not fit all users. There are a number of factors that must be considered when a pole owner processes a pole attachment request.<sup>29</sup> For example, a pole owner must consider total weight loading from all attachments, other equipment on the pole, the arrangement of electric conductors on the pole, the type and size of pole, state Department of Transportation regulations, local ordinances, soil conditions, radio frequency emissions, attachment relocation requirements, and compliance with the NESC, ARC flash, and other applicable safety requirements.<sup>30</sup> Additionally, some states have adopted storm hardening codes that must be followed by all parties attached to a pole.<sup>31</sup>

Any Commission effort to make regulations or issue orders that attempt to provide detailed make-ready work guidance must fail of their own weight. Such regulations or orders would, by necessity, be cumbersome and administratively burdensome. The net result of such

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<sup>28</sup> Georgia Power recognizes that most critical government functions have some form of backup power source. However, it is the rare case where such backup service provides electrical power that meets any users full requirements.

<sup>29</sup> See Ginn Decl. at ¶ 5.

<sup>30</sup> *Id.*

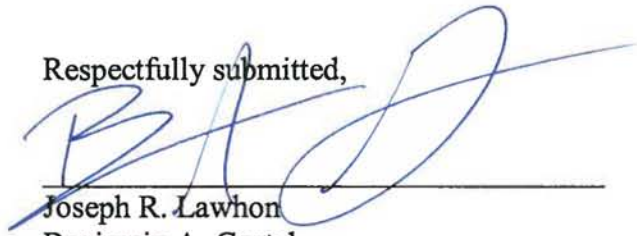
<sup>31</sup> See e.g., Fla. Admin. Code Rule R. 25-6.0342 (2009) (requiring investor owned utilities to develop a comprehensive storm hardening plan and to update the plan every three years).

regulations or orders would most certainly be more costly and less efficient than the current make-ready process.

**VI. Conclusion**

For the reasons set forth in this Reply, Georgia Power believes that it will be bad policy for the Commission to modify its pole attachment regulations and orders for the purpose of promoting broadband deployment.

Respectfully submitted,



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*Counsel for Georgia Power Company*

# **EXHIBIT 1**

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	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	

**DECLARATION OF CANDLER J. GINN**

1. My name is Candler J. Ginn. I am the Distribution Resources and Service Project Manager of Georgia Power Company ("Georgia Power"), a wholly owned subsidiary of Southern Company. My business address is 829 Jefferson St NW, Atlanta, Georgia 30318. I am over 18 years of age and have personal knowledge of all matters set forth herein.

2. As the Distribution Resources and Service Project Manager, I am responsible for pole attachment make-ready work performed on Georgia Power's poles to accommodate other parties' attachments. I have been employed in this position for 6 years.

3. Georgia Power is not currently receiving any significant or reoccurring complaints regarding the performance of make-ready work on the electrical system. The complaints that are made by attaching parties usually are in connection with another attaching party's delay in relocating an existing attachment in order to accommodate the new attachment.

4. Based on my experience, I consider it essential that Georgia Power continue to manage and control the make-ready process in order to protect the integrity and reliability of Georgia Power's distribution system. If attaching parties are allowed to use their contractors to

perform make-ready work, such contractor's main focus would be to affix the new attachment rather than protecting the electric service distribution system. Such contractors would also lack knowledge concerning other attachments on a pole and Georgia Power's future plans. If another party's contractor did perform engineering and/or make-ready work, for reasons of safety and system reliability Georgia Power would be compelled to perform its own parallel engineering work and conduct a site inspection. The net result would be a potentially less reliable system and a make-ready process that would be more time consuming than the present method of performing such work.

5. It has been my experience that pole attachment make-ready work is often unique. Make-Ready work requires that a pole owner consider total weight loading from all attachments, other equipment on the pole, the arrangement of electric conductors on the pole, the type and size of pole, state Department of Transportation regulations, local ordinances, soil conditions, radio frequency emissions, attachment relocation requirements, and compliance with the National Electric Safety Code, ARC flash, and other applicable safety requirements. Pole owners must have flexibility in meeting the challenges of make-ready work in order for the process to work smoothly and in a safe manner that promotes reliability for all attaching parties' facilities.

6. Georgia Power currently owns approximately 1,300,000 distribution poles covering approximately 47,000 pole miles in the State of Georgia.

7. On average, it takes Georgia Power 28 days from receiving an application to perform engineering and provide the applicant with a cost estimate. It then takes the applicant on average 19 days to make a decision as to whether or not to proceed with the work. On average, it takes Georgia Power a total of 54 days (which includes the 19 days waiting on a decision from the applicant) from receiving an application for access to finalize engineering work, complete the electrical system adjustments, and issue a permit to proceed in conjunction

with the other existing attaching entities. The size of the job is also a factor in how long it takes to complete make-ready work.

8. I declare under penalty of perjury that the statements contained in this Declaration are true and correct.

Executed on October 2, 2009.

  
Candler J. Ginn

# **EXHIBIT 2**

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	)	

**DECLARATION OF ALLEN F. BELL**

1. My name is Allen F. Bell. I am the Distribution Support Manager for Georgia Power Company ("Georgia Power"), a wholly owned subsidiary of Southern Company. My business address is 241 Ralph McGill Boulevard NE, Atlanta, GA 30308. I am over 18 years of age and have personal knowledge of all matters set forth herein.

2. I have been employed in my current position for 4.5 years.

3. The Georgia Power Distribution Support Department is responsible for all joint use of the Company's distribution poles. Such joint use includes attachments by incumbent local exchange carriers, competitive local exchange carriers, cable television systems, state and local governments, municipal owned utilities, electric membership cooperatives ("EMC") and internet service providers. In addition to other party attachments on Georgia Power's poles, I also have responsibility for Georgia Power attachments on distribution poles owned by other entities.



Therefore, I have general knowledge of the areas in the State of Georgia in which other parties own the majority of the poles.

4. The vast majority of Georgia Power's customers are located in urban areas. As a result, all but a small percentage of Georgia Power owned poles are in built-up areas that are already being served by a host of companies that provide broadband service using DSL, cable or wireless facilities. A map detailing the service areas of Georgia Power and other retail electric service providers in the state of Georgia is attached as Attachment A.

5. The rural areas of the State of Georgia are usually served by EMC's or government owned utilities such as the Tennessee Valley Authority.

6. Labor agreements with some communication companies prevent Georgia Power from designating a single company to transfer, move, or rearrange attachments on poles when such attachments need to be transferred, moved, or rearranged to accommodate new service requirements or new attachments.

7. Georgia Power counts the pole attachments in the entire state of Georgia on a five year cycle. In the most recent cycle (2008) which included two of the most rural areas of the state Georgia Power serves, a net increase of over 7800 attachments were added by cable television service providers ("cable providers") and competitive local exchange carriers ("CLECs"). This number is net of the total attachments added by cable providers and CLECs less the number of attachments removed by these entities. A map outlining (in red) the Georgia Power service territory counted as part of the 2008 cycle is attached as Attachment B.

8. It has recently been Georgia Power's experience that no exceptionally large size build outs by service providers are occurring in Georgia Power's service area. The lack of such build outs is due to the fact that new subdivision and commercial construction project are using

underground facilities. New underground facilities are typically installed using joint trench agreements in dedicated public access rights of way. Joint trench agreements do not involve mandatory access and none of the parties are required to pay any recovery access charges.

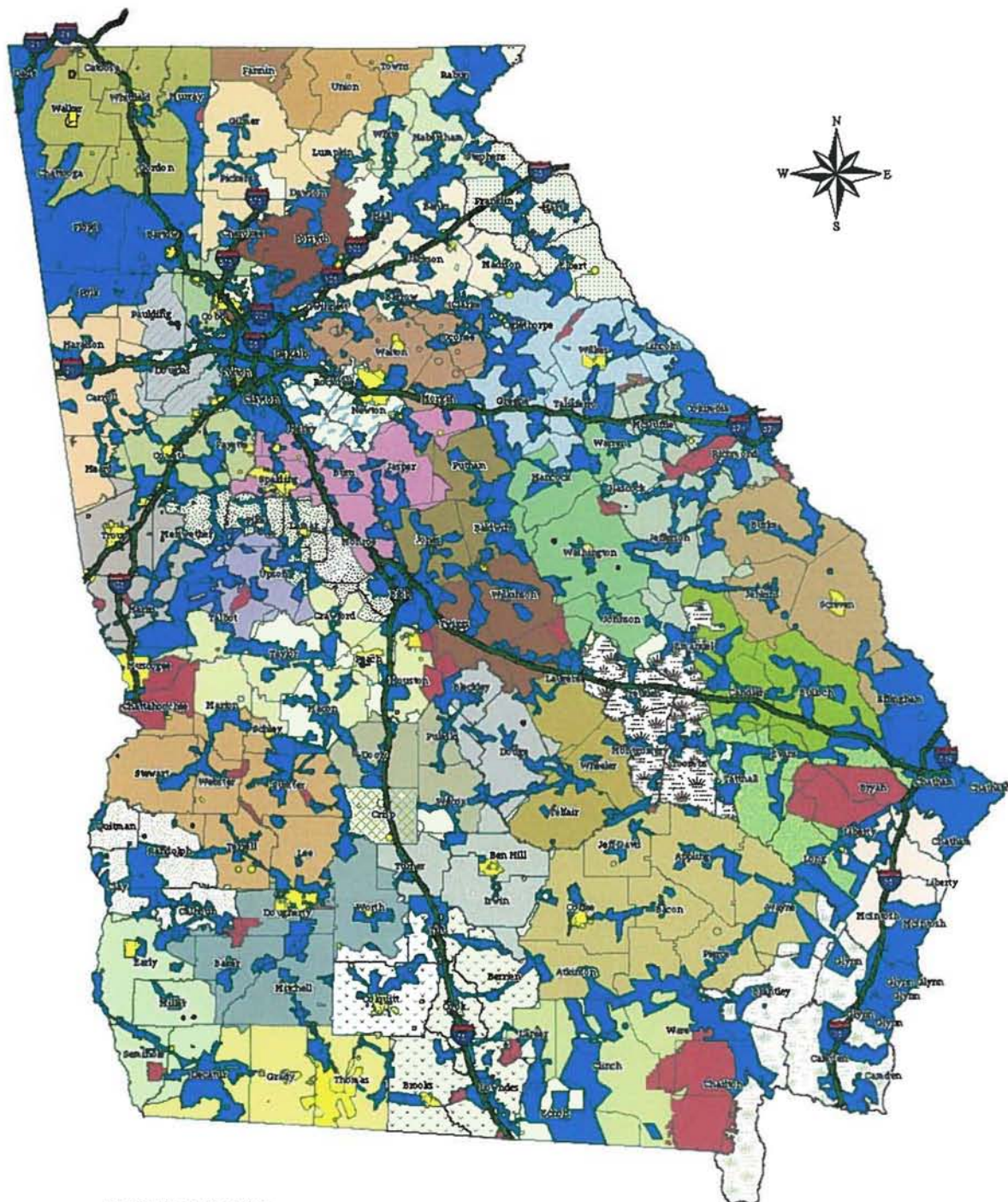
9. I declare under penalty of perjury that the statements contained in this Declaration are true and correct.

Executed on September 30, 2009.

  
Allen F. Bell

# Attachment A

# Power Service Territories of Georgia



## Provider Service Territory

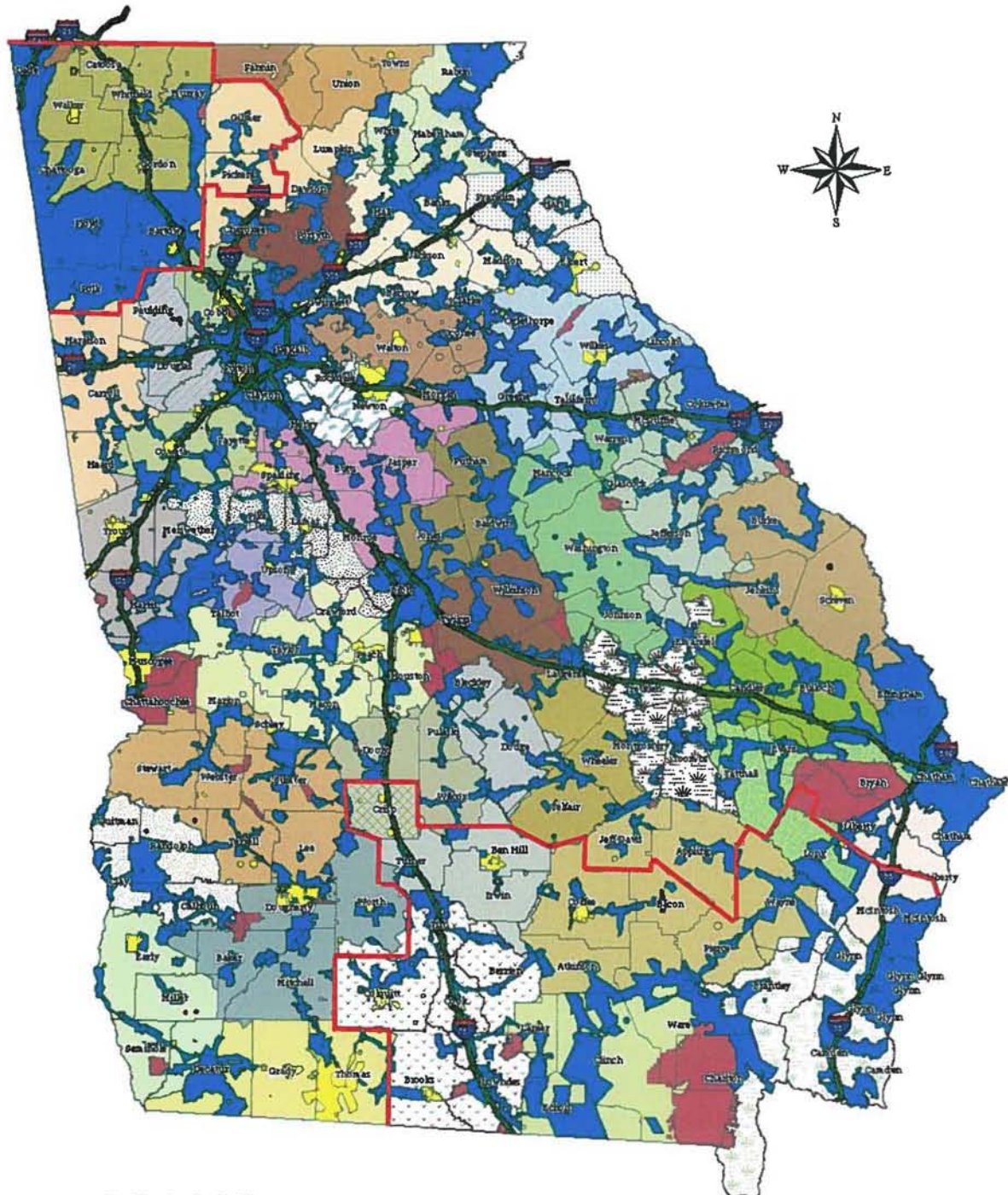
Altamaha EMC	Eleo. Power Bd. of Chattanooga	Little Congulgee EMC	Savannah EMC	County Boundary
Amicalola EMC	Brooker EMC	Middle Georgia EMC	Stark Pine EMC	Interstate
Blue Ridge EMC	Flint EMC	Mitchell EMC	Snapping Shoals EMC	
Canoochee EMC	Georgia Power Company	Municipal (MEA's) Service Areas	Sumter EMC	
Central Georgia EMC	Grady EMC	North Georgia EMC	Three Notch EMC	
Carroll EMC	Habersham EMC	Oconulgee EMC	Tri County EMC	
Coastal EMC	Hart EMC	Oconee EMC	Tri-State EMC	
Cobb EMC	Haywood EMC	Okefenokee EMC	Troup EMC	
Colquitt EMC	Irwin EMC	Pataula EMC	Upson EMC	
Coweta-Fayette EMC	Jackson EMC	Planters EMC	Walton EMC	
Crisp Co. Power Comm.	Jefferson EMC	Rayle EMC	Unassigned Areas	
Gray Stone EMC	Lamar EMC	Satilla EMC	Washington EMC	

Updated 6-2007

# Attachment B



# Power Service Territories of Georgia



## Provider Service Territory

Altamaha EMC	Eleo. Power Bd. of Chattanooga	Little Cormucke EMC	Savnee EMC
Amicolola EMC	Exterior EMC	Middle Georgia EMC	Slash Pine EMC
Blue Ridge EMC	Flint EMC	Mitchell EMC	Snapping Shoals EMC
Canoochee EMC	Georgia Power Company	Municipal (MEA's) Service Areas	Sumter EMC
Central Georgia EMC	Grady EMC	North Georgia EMC	Three Notch EMC
Carroll EMC	Habersham EMC	Ocmulgee EMC	Tri County EMC
Coastal EMC	Hart EMC	Deonee EMC	Tri State EMC
Cobb EMC	Haywood EMC	Okefenoke EMC	Troup EMC
Colquit EMC	Iwin EMC	Pataula EMC	Upson EMC
Coweta-Fayette EMC	Jackson EMC	Planters EMC	Walton EMC
Crisp Co. Power Comm.	Jefferson EMC	Rayle EMC	Unassigned Areas
Grey Stone EMC	Lamar EMC	Satilla EMC	Washington EMC

County Boundary  
Interstates

Updated 6-2007